

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6773

BILL NUMBER: HB 1080

NOTE PREPARED: Feb 24, 2004

BILL AMENDED: Feb 23, 2004

SUBJECT: Indiana Business Purchasing Preferences.

FIRST AUTHOR: Rep. Mays

FIRST SPONSOR: Sen. Weatherwax

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill provides a price preference to Indiana businesses for public works and procurement contracts awarded by the state. It provides that the preference ranges from 1% to 5%, depending on the estimated cost of the purchase. The bill provides that this preference does not apply to the detriment of a business from a state bordering Indiana, if the bordering state does not provide purchasing preferences to its businesses more favorable than preferences provided to Indiana businesses by Indiana law. The bill requires a business claiming the preference to provide certain information to substantiate that the business is an Indiana business. It requires the Department of Administration to submit a report to the Legislative Council relating to the operation of the preference not later than September 1, 2008. The bill provides for expiration of the preference on July 1, 2009. The bill provides that if a governmental body adopts a retaliatory purchasing preference, the preference may not apply to the detriment of the businesses of a bordering state if the bordering state does not provide purchasing preferences to its businesses more favorable than preferences provided to Indiana businesses by Indiana law. The bill provides that to be considered responsible, an offeror for a purchase by the state that is required to register with the Secretary of State must have registered at least 45 days before the solicitation for the purchase is issued.

Effective Date: July 1, 2004.

Explanation of State Expenditures: (Revised) This bill will increase the administrative cost of the Department of Administration and the Department of Commerce insofar as both agencies are required to develop criteria for determining whether a particular business is eligible for the Indiana business price preference. It is presumed that both agencies could absorb this cost using existing staff and resources.

Additionally, the bill requires the Department of Administration to provide the Legislative Council with a report by September 1, 2008 detailing the state's experience from FY 2005 to FY 2008 with the Indiana

business purchasing preference.

The bill requires businesses wishing to claim the preference to provide information on their principal place of business, the share of the contractor's total payroll that is paid to Indiana residents, the company's total number of employees and the number that Indiana residents it employees, the contractor's capital investment in Indiana, and a description of the positive economic impact the contractor has on Indiana.

Contracting Costs: The bill establishes three separate price preferences on bids placed by qualified firms domiciled in Indiana for public works and procurement contracts. Under the bill, qualified Indiana firms would be eligible for the following price preferences:

<u>Expected Value of Contract/ Cost of Supplies</u>	<u>Indiana Business Preference</u>
Less than \$500,000	5%
\$500,000-\$1,000,000	3%
Greater than \$1,000,000	1%

The price preference allows qualified Indiana firms to bid for a public works or procurement contract at a percentage amount over the amount bid for the contract by businesses located in certain non-neighboring states, and other things being equal, win the state contract. For example, if the state requests bids on a procurement contract and receives two bids, one from a firm located in a non-neighboring state at \$10,000 and one from a qualified Indiana firm for \$10,499, other things being equal, the bill would require the state agency to procure the item from the qualified Indiana firm.

A specific fiscal analysis of the proposal is indeterminable as it will depend on the marketplace's response to the preference. While the price preference for qualified Indiana firms could encourage out-of-state offerors to lower their bids for procurement and public works contracts to become more competitive, it is presumed that the preference will increase the state's contracting costs.

The price preference would not apply to competing bids between Indiana firms and those in neighboring states, unless the neighboring state provides purchasing preferences for locally based firms that are more favorable than those provided by the state of Indiana to Indiana qualified firms. At present, the price preference described in the bill is not expected to impact competing bids from firms in Indiana and neighboring states.

The Indiana business price preference expires on July 1, 2009.

Background Information: The Department of Administration took a snapshot of the state's current contracts to determine the shares of contracts that go to out-of-state firms. Their analysis revealed the following:

<u>Type of Purchase/ Contract</u>	<u>Percent Fulfilled by Out-of-State Firms</u>
Public Works Contracts	6 %
Procurement Contracts	39 %
Quantity Purchase Agreements	15 %

Explanation of State Revenues: *Secondary Impact:* If the price preferences in the bill encourage more business activity in the state, revenue from the state's corporate, income, and sales taxes would increase.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Administration; Department of Commerce; Secretary of State; Legislative Council.

Local Agencies Affected:

Information Sources: Department of Administration.

Fiscal Analyst: John Parkey, 317-232-9854.